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9 ROWLAND MARCUS ANDRADE

10 **UNITED STATES DISTRICT COURT**

11 **NORTHERN DISTRICT OF CALIFORNIA**

12 **SAN FRANCISCO DIVISION**

13 UNITED STATES OF AMERICA

14 Plaintiff,

15 v.

16 ROWLAND MARCUS ANDRADE,

17 Defendant.

Case No. 3:20-cr-00249-RS

**DECLARATION OF MICHAEL J.
SHEPARD IN SUPPORT OF
DEFENDANT ROWLAND MARCUS
ANDRADE'S NOTICE OF MOTION AND
MOTION TO COMPEL DISCOVERY;
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT THEREOF;
AND PROPOSED ORDER**

DATE: August 2, 2022

TIME: 9:30 a.m.

JUDGE: Hon. Richard Seeborg

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DECLARATION OF MICHAEL J. SHEPARD

Michael J. Shepard, counsel for Defendant Marcus Andrade, states as follows:

1. I represent Defendant Marcus Andrade in the captioned matter. My colleagues and I have had ongoing discussions with the government lawyers concerning the timing of their production of documents, the schedule for responding to our requests and letters, and related discovery issues. Despite the absence of this production having come up at the March 8, 2022 status, and despite our having asked the government by email on June 14 for this production, the government has declined to identify any kind of schedule for producing those documents. The government has reported that the documents are undergoing a privilege review by a taint team at the Department of Justice.

2. My most recent conversation with the government about a schedule for its production of the documents seized from Mr. Andrade's home and office was a telephone conference with AUSA Andrew Dawson on July 11, 2022. My colleagues Luke Roniger and Kerrie Dent joined me on the call, during which we discussed several discovery issues, including the issue that is the focus of the accompanying Motion to Compel; namely, the government not providing us with a schedule for producing the privilege review materials that were seized from Mr. Andrade's home and office more than two years ago.

3. We discussed other discovery requests during the July 11 call, in addition to the seized documents. Several hours before that call, we received a production of documents from the government, but had not had time to download it, let alone review it, before the call began. While that production appears to have been responsive to one of our other pending requests, AUSA Dawson acknowledged during the call that the production does not include any of the seized documents. In response to my request for an indication of when the government intends to produce the documents, AUSA Dawson was unable to provide a schedule. He did provide a rough schedule within which he would respond to a list of discovery requests we made on May 10, 2022, to which

1 the government had not yet responded.

2 4. Discovery is ongoing, and the parties continue to work through issues as they arise.
3 As the Court knows, the case is a complicated one that involves a substantial amount of discovery
4 and document review. We already have identified large quantities of missing material, and prompt
5 review of that material is necessary to identify leads and topics for our client's defense, many of
6 which require expert assistance; reviewing the material, lining up experts and giving them time to
7 conduct their review, and chasing leads requires a great deal of time. The issue Mr. Andrade brings
8 to the Court in his Motion to Compel is the narrow question of whether the government should be
9 required to produce to Mr. Andrade immediately his own documents that the government seized
10 from his home and office years ago, so that our preparation is not delayed.

11 I certify under penalty of perjury under the laws of the United States that the foregoing is
12 true and correct.
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15 Date: July 15, 2022

16 KING & SPALDING LLP

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18 By: 
19 MICHAEL J. SHEPARD

20 Attorney for Defendant
21 ROWLAND MARCUS ANDRADE
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